

FIFTEENTH DAY - JANUARY 28, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FIFTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 28, 2004

PRAYER

The prayer was offered by Senator Redfield.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Hartnett who was excused; and Senators Beutler, Brown, Mines, Mossey, Price, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fourteenth day was approved.

NOTICE OF COMMITTEE HEARINGS**Health and Human Services**

Room 1510

LB 1226	Wednesday, February 4, 2004	1:30 p.m.
LB 1240	Wednesday, February 4, 2004	1:30 p.m.
LB 1140	Wednesday, February 4, 2004	1:30 p.m.
LB 1158	Wednesday, February 4, 2004	1:30 p.m.
LB 1159	Friday, February 6, 2004	1:30 p.m.
LB 1198	Friday, February 6, 2004	1:30 p.m.
LB 1139	Friday, February 6, 2004	1:30 p.m.

(Signed) Jim Jensen, Chairperson

MESSAGE FROM THE GOVERNOR

January 21, 2004

President, Speaker Bromm

and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the State Fair Board.

APPOINTEE:

*Sallie Atkins, HC 76 Box 4, Halsey NE 69142

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointments
Enclosure

GENERAL FILE

LEGISLATIVE BILL 270. The Brashear pending amendment, AM2019, printed separately and referred to on page 1991, First Session, 2003, and considered on page 262, was renewed.

The Brashear amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Senator Brashear withdrew his pending motion, found on page 2015, First Session, 2003, to suspend Rule 6, Section 3 and Rule 7, Sections 3 and 7, and vote on the advancement of LB 270 without further amendment or debate.

Advanced to E & R for review with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 559. The Standing Committee amendment, AM0496, found on page 609, First Session, 2003, and considered on page 314, was renewed.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA1429

Amend AM0496

In line 4 beginning with "line" strike through "and" in line 5.

The Chambers amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Senator Baker withdrew his pending amendment, AM2192, found on page 210.

Senator Baker renewed his pending amendment, AM2241, found on page 317.

The Baker amendment was adopted with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

Senator Chambers offered the following amendment:
FA1430

Page 9 beginning in line 17 strike "or issued based on the submission of false information or the intentional withholding of required information".

The Chambers amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 559A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1003

Friday, February 6, 2004
AGENCY 30 - Electrical Board

1:30 p.m.

Room 1524

Monday, February 9, 2004
AGENCY 5 - Supreme Court
AGENCY 11 - Attorney General
AGENCY 15 - Board of Pardons
AGENCY 46 - Correctional Services
AGENCY 64 - State Patrol
AGENCY 94 - Comm. on Public Advocacy

1:30 p.m.

LB 1141 Tuesday, February 10, 2004

1:30 p.m.

LB 1217 Tuesday, February 10, 2004 1:30 p.m.

Tuesday, February 10, 2004

1:30 p.m.

AGENCY 20 - HHS -- Regulation & Licensure

AGENCY 25 - Health & Human Services

AGENCY 26 - HHS--Finance & Support

Room 1003

LB 1144 Wednesday, February 11, 2004 1:30 p.m.

LB 1204 Wednesday, February 11, 2004 1:30 p.m.

Wednesday, February 11, 2004

1:30 p.m.

AGENCY 12 – State Treasurer

AGENCY 14 - Public Service Commission

AGENCY 16 - Dept. of Revenue

AGENCY 21 - State Fire Marshal

AGENCY 31 - Military

AGENCY 35 - Liquor Control Commission

AGENCY 84 - Dept. of Environmental Quality

AGENCY 96 - Property Assessment & Taxation

Thursday, February 12, 2004

1:30 p.m.

AGENCY 3 - Legislative Council

AGENCY 7 - Governor

AGENCY 8 - Lieutenant Governor

AGENCY 9 - Secretary of State

AGENCY 10 - Auditor of Public Accounts

AGENCY 27 - Dept. of Roads

AGENCY 28 - Dept. of Veterans' Affairs

AGENCY 29 - Dept. of Natural Resources

AGENCY 32 - Bd. of Educational Lands-Funds

AGENCY 33 - Game & Parks Commission

AGENCY 34 - Nebraska Library Commission

AGENCY 50 - State College System

AGENCY 68 - Mexican American Comm.

AGENCY 69 - Nebraska Arts Council

AGENCY 72 - Dept. of Economic Development

AGENCY 76 - Nebraska Indian Commission

AGENCY 77 - Comm. of Industrial Relations

AGENCY 78 - NE Commission on Law Enforcement

AGENCY 83 - Community College Aid

AGENCY 87 - Account. & Disclosure Comm.

AGENCY 93 - Tax Equalization & Review

(Signed) Roger R. Wehrbein, Chairperson

Judiciary
Room 1113

LB 883	Wednesday, February 4, 2004	1:30 p.m.
LB 998	Wednesday, February 4, 2004	1:30 p.m.
LB 1012	Wednesday, February 4, 2004	1:30 p.m.
LB 1046	Wednesday, February 4, 2004	1:30 p.m.
LB 1058	Wednesday, February 4, 2004	1:30 p.m.
LB 1061	Wednesday, February 4, 2004	1:30 p.m.
LB 1200	Wednesday, February 4, 2004	1:30 p.m.
LB 1009	Thursday, February 5, 2004	1:30 p.m.
LB 1044	Thursday, February 5, 2004	1:30 p.m.
LB 1131	Thursday, February 5, 2004	1:30 p.m.
LB 1225	Thursday, February 5, 2004	1:30 p.m.
LB 1031	Friday, February 6, 2004	1:30 p.m.
LB 1032	Friday, February 6, 2004	1:30 p.m.
LB 1112	Friday, February 6, 2004	1:30 p.m.
LB 1157	Friday, February 6, 2004	1:30 p.m.

(Signed) Kermit A. Brashear, Chairperson

ANNOUNCEMENT

The Government, Military and Veterans Affairs Committee designates LB 963 as its priority bill.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 279A. Introduced by Jones, 43.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 279, Ninety-eighth Legislature, Second Session, 2004; and to provide for transfers.

SENATOR SCHIMEK PRESIDING

GENERAL FILE

LEGISLATIVE BILL 449. Title read. Considered.

Senator Schrock renewed his pending amendment, AM2218, found on page 267.

The Schrock amendment was adopted with 27 ayes, 0 nays, 17 present and

not voting, and 5 excused and not voting.

Advanced to E & R for review with 29 ayes, 1 nay, 14 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 449A. Title read. Considered.

Senator Schrock renewed his pending amendment, AM2199, found on page 267.

The Schrock amendment was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 323. Title read. Considered.

SENATOR CUDABACK PRESIDING

Advanced to E & R for review with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 511. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 656. Title read. Considered.

Senator Chambers offered the following motion:
Indefinitely postpone.

Pending.

STANDING COMMITTEE REPORTS **Government, Military and Veterans Affairs**

LEGISLATIVE BILL 963. Placed on General File as amended.
Standing Committee amendment to LB 963:
AM2348

- 1 1. Insert the following new sections:
- 2 "Sec. 3. Section 55-121, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 55-121. The Adjutant General shall be appointed by the
- 5 Governor from the active or retired commissioned officers of the
- 6 National Guard of this state. Such Adjutant General shall be or
- 7 have been a commissioned officer ~~of the field or line in active~~
- 8 ~~service~~ who has actively served in the National Guard of this state

9 for at least ~~seven~~ five years, ~~and~~ shall have attained at least the
 10 grade of lieutenant colonel, and be able to become eligible for
 11 promotion to general officer. If a retired officer is appointed,
 12 he or she shall not have been retired for more than two years at
 13 the time he or she is considered for appointment. He or she shall
 14 hold his or her office as provided in section 55-136. He or she
 15 shall receive for his or her services such salary as the Governor
 16 shall direct, payable monthly, except ; PROVIDED, that such salary
 17 shall not exceed the annual pay and allowances of regular military
 18 officers of equal rank. If ; AND PROVIDED FURTHER, that when funds
 19 made available by the federal government are in excess of the
 20 amount payable as directed by the Governor, the excess shall be
 21 used to reduce the amount required to be paid by the state. Due to
 22 the interrelated nature of the Adjutant General's state and federal
 23 duties, the Adjutant General shall not be required to take paid or
 24 unpaid leave or leaves of absence to perform his or her federal
 1 duties, whether or not under federal orders. The Adjutant General
 2 shall continue to receive his or her salary during all such
 3 periods. The Adjutant General shall only be required to take leave
 4 or leaves of absence during those times when he or she is absent
 5 and performing neither his or her state nor federal duties as
 6 Adjutant General. This section shall not apply if the Adjutant
 7 General is called to active duty of the United States under Title
 8 10 of the United States Code.

9 Sec. 4. Section 55-125, Reissue Revised Statutes of
 10 Nebraska, is amended to read:
 11 55-125. The Adjutant General ~~shall have~~ may appoint a
 12 deputy adjutant general, ~~a or~~ chief of staff of the Military
 13 Department, in a or a deputy director. The officer shall hold the
 14 grade of not less than colonel, as provided in section 55-120, ;
 15 ~~who shall be appointed by the Adjutant General.~~ No person shall be
 16 eligible for such appointment and service unless he or she is an
 17 active member of the Nebraska National Guard. He or she shall have
 18 had at least four years of commissioned service in the Nebraska
 19 National Guard immediately prior to appointment and shall have
 20 attained at least the grade of lieutenant colonel prior to his or
 21 her appointment as deputy adjutant general, or chief of staff of
 22 the Military Department, or deputy director. The Adjutant General
 23 shall appoint an officer with a grade of not less than major who
 24 may act as United States property and fiscal officer. The Adjutant
 25 General may also appoint ; an assistant United States property and
 26 fiscal officer, with the grade of not less than captain. These ;
 27 ~~which~~ officers shall be appointed from among the active officers of
 1 the Nebraska National Guard and shall have been commissioned
 2 officers in the Nebraska National Guard for a period of at least
 3 four years and shall have attained the grade of at least captain
 4 and first lieutenant, respectively immediately prior to
 5 appointment. The Adjutant General shall appoint all additional
 6 officers, clerks and caretakers as may be required.

7 Sec. 5. Section 55-126, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 55-126. The deputy adjutant general, chief of staff of
10 the Military Department, or deputy director shall aid the Adjutant
11 General by the performance of such duties as may be assigned by the
12 Adjutant General. In case of absence or inability of the Adjutant
13 General, the deputy adjutant general, chief of staff of the
14 Military Department, or deputy director shall perform all or such
15 portion of the duties of the Adjutant General as the latter may
16 expressly delegate to him or her. If a deputy adjutant general,
17 chief of staff of the Military Department, or deputy director has
18 not been appointed, the Adjutant General may delegate the authority
19 to perform the duties of the Adjutant General to any active officer
20 of the Nebraska military. Any officer exercising this authority
21 shall hold at least the rank of colonel. The deputy adjutant
22 general, chief of staff of the Military Department, or deputy
23 director shall be bonded under the blanket surety bond required by
24 section 11-201. The deputy adjutant general, chief of staff of the
25 Military Department, or deputy director shall receive such salary
26 as the Adjutant General shall direct, payable monthly. Such salary
27 shall not exceed the annual pay and allowances of regular military
1 officers of equal rank, except that when funds made available by
2 the federal government are in excess of the amount payable as
3 directed by the Adjutant General, the excess shall be used to
4 reduce the amount required to be paid by the State of Nebraska.

5 Sec. 6. Section 55-157, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 55-157. (1) When an active or retired officer or
8 enlisted person of the National Guard is ordered to active service
9 of the state by the Governor or Adjutant General, he or she shall
10 receive compensation as provided in this section. For service
11 during a disaster or emergency an officer or enlisted person shall
12 be entitled to the same pay, subsistence, and quarters allowance as
13 officers and enlisted personnel of corresponding grades of the Army
14 and Air Force of the United States. For advice, counsel, duties,
15 or service to the Governor or Adjutant General an officer or
16 enlisted person may, at the discretion of the Adjutant General, be
17 in a pay or nonpay status. If in a pay status, the officer or
18 enlisted person shall be entitled to the same pay, subsistence, and
19 quarters allowance as officers and enlisted personnel of
20 corresponding grades of the Army and Air Force of the United
21 States.

22 (2) For any period of active service of the state in
23 excess of thirty days, performed at the order of the Governor or
24 Adjutant General, at the request of the federal government, a
25 state, or other agency or entity, an officer or enlisted person
26 shall be entitled to reimbursement of one hundred percent of the
27 cost of his or her privately purchased health insurance or up to
1 one hundred two percent of the cost of their employer-provided

2 health insurance. The officer or enlisted person shall provide
 3 evidence of payment and shall be reimbursed to the extent that
 4 evidence of payment can be provided. The reimbursement for health
 5 insurance shall be treated as an allowance, but may be paid
 6 separately once received by the State of Nebraska from the federal
 7 government, state, or other agency or entity requesting the
 8 services of the officer or enlisted person. The State of Nebraska
 9 will not pay or advance the cost of such health insurance
 10 reimbursement for the federal government, a state, or other agency
 11 or entity. The State of Nebraska is exempt from the requirement
 12 under this section to reimburse officers and enlisted persons for
 13 their health insurance costs."

14 2. On page 6, line 14, after "original" insert "sections
 15 55-121, 55-125, 55-126, and 55-157, Reissue Revised Statutes of
 16 Nebraska, and"; and in line 15 strike "is" and insert "are".

17 3. Renumber the remaining section accordingly.

(Signed) DiAnna R. Schimek, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 845. Placed on General File.

LEGISLATIVE BILL 884. Placed on General File.

LEGISLATIVE BILL 885. Placed on General File.

LEGISLATIVE BILL 980. Placed on General File.

LEGISLATIVE BILL 979. Placed on General File as amended.

Standing Committee amendment to LB 979:

AM2271

1 1. Insert the following new section:

2 "Sec. 14. Since an emergency exists, this act takes

3 effect when passed and approved according to law."

LEGISLATIVE BILL 1099. Placed on General File as amended.

Standing Committee amendment to LB 1099:

AM2345

1 1. On page 2, line 24; and page 5, line 2, strike the

2 new matter and insert "four dollars and fifty cents".

LEGISLATIVE BILL 978. Indefinitely postponed.

(Signed) Mark Quandahl, Chairperson

NOTICE OF COMMITTEE HEARINGS **Government, Military and Veterans Affairs** Room 1507

LB 898 Wednesday, February 4, 2004

1:30 p.m.

LB 964 Wednesday, February 4, 2004

1:30 p.m.

LB 1180	Wednesday, February 4, 2004	1:30 p.m.
LB 1183	Wednesday, February 4, 2004	1:30 p.m.
LB 1247	Wednesday, February 4, 2004	1:30 p.m.
LB 819	Thursday, February 5, 2004	1:30 p.m.
LB 1087	Thursday, February 5, 2004	1:30 p.m.
LB 1118	Thursday, February 5, 2004	1:30 p.m.
LB 1155	Thursday, February 5, 2004	1:30 p.m.
LB 1194	Thursday, February 5, 2004	1:30 p.m.
Friday, February 6, 2004		1:30 p.m.
Jeanne V. Ross - State Personnel Board		
LB 940	Friday, February 6, 2004	1:30 p.m.
LB 1033	Friday, February 6, 2004	1:30 p.m.
LB 1063	Friday, February 6, 2004	1:30 p.m.
LB 1209	Friday, February 6, 2004	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 229. Introduced by Burling, 33.

WHEREAS, Drew Hubl of Hastings, Nebraska, has completed the requirements for and been awarded the highest honor and rank in the Boy Scouts of America, the rank of Eagle Scout; and

WHEREAS, Drew Hubl was recognized by the Boy Scouts for his years of hard work, commitment to his scouting duties, and service to his community which included his Eagle Scout project; and

WHEREAS, fewer than two percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Drew Hubl has achieved great success as an exemplary member of the scouting program; thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes, and has represented his troop and community with excellence.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature congratulates Drew Hubl on his achievement of the elite rank of Eagle Scout in the Boy Scouts and recognizes his outstanding community service efforts in Hastings.

2. That a copy of this resolution be sent to Drew Hubl and his family.

Laid over.

AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 270:
AM2215

(Amendments to AM2019)

- 1 1. Insert the following new section:
- 2 "Sec. 8. Nothing in the Nebraska Crime Victim's
- 3 Reparations Act or sections 81-1843 to 81-1850 and sections 9, 12
- 4 to 14, and 17 of this act requiring an act by the state or
- 5 political subdivision is deemed to create any liability if the
- 6 state or political subdivision fails to act as required under the
- 7 act or such sections. Such failure to act also shall not
- 8 invalidate any legal process or proceeding."
- 9 2. On page 4, line 27, strike "section" and insert
- 10 "sections".
- 11 3. On page 5, line 1, after "5" insert "and 8".
- 12 4. Renumber the remaining sections accordingly.

WITHDRAW - Cointroducer

Senator Friend withdrew his name as cointroducer to LB 439.

UNANIMOUS CONSENT - Add Cointroducers

Senator Maxwell asked unanimous consent to have his name added as cointroducer to LB 816. No objections. So ordered.

Senator Friend asked unanimous consent to have his name added as cointroducer to LBs 880 and 881. No objections. So ordered.

Senator Combs asked unanimous consent to have her name added as cointroducer to LBs 986, 1041, and 1055. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 1082. No objections. So ordered.

Senator Schimek asked unanimous consent to have her name added as cointroducer to LB 1155. No objections. So ordered.

Senator Hudkins asked unanimous consent to have her name added as cointroducer to LB 1181. No objections. So ordered.

Senator Synowiecki asked unanimous consent to have his name added as cointroducer to LB 1184. No objections. So ordered.

VISITORS

Visitors to the Chamber were Pastor Jose Flores from Omaha; Donna Ziems from Ewing; and Senator Synowiecki's son, James, from Omaha.

ADJOURNMENT

At 11:59 a.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Thursday, January 29, 2004.

Patrick J. O'Donnell
Clerk of the Legislature